

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
NO. 4:05-CR-82-2BR

UNITED STATES OF AMERICA

v.

DONALD EUGENE JOHNSON

ORDER

This matter is before the court on defendant's letter filed 14 August 2017. (DE # 91.) In the letter, defendant claims that the Bureau of Prisons ("BOP") has not properly credited his sentence for the time from he was indicted, 29 September 2005, to the date he was sentenced, 2 October 2006. He requests that the court give him "jail credit." To the extent this letter could be deemed a motion, the court will deny it without prejudice.

Because defendant is challenging the execution of his sentence, he must seek relief by petition under 28 U.S.C. § 2241. See United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989) ("A claim for credit against a sentence attacks the computation and execution of the sentence rather than the sentence itself. Judicial review must be sought under 28 U.S.C. § 2241 . . . ." (citation omitted)). The court notes that generally before filing such a petition, the petitioner must exhaust his administrative remedies through the BOP. See McClung v. Shearin, 90 F. App'x 444, 445 (4th Cir. 2004) ("Federal prisoners must exhaust their administrative remedies prior to filing § 2241 petitions. Failure to exhaust may only be excused upon a showing of cause and prejudice." (citations omitted)). Also, the petition must be filed in the district in which the petitioner is in custody. Miller, 871 F.2d at 490.

Because defendant is incarcerated in the District of South Carolina, the motion is  
DENIED WITHOUT PREJUDICE to defendant filing a § 2241 petition in that district court.

This 17 January 2018.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

---

W. Earl Britt  
Senior U.S. District Judge